

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SPINE & JOINT SURGICAL INSTITUTE
OF MICHIGAN SOUTHFIELD LLC,

Plaintiff, Case No. 21-cv-11316
v. Hon. Matthew F. Leitman
SURGICAL CENTER /
OF SOUTHFIELD, LLC, *et al.*,
Defendants.

**ORDER (1) TERMINATING DEFENDANTS' MOTION TO DISMISS
WITHOUT PREJUDICE AS MOOT (ECF No. 16) AND (2) ADJOURNING
SCHEDULED HEARING ON MOTION TO DISMISS**

On June 3, 2021, Plaintiff Spine & Joint Surgical Institute of Michigan Southfield LLC (“S&J”) filed this action against several Defendants. (See Compl., ECF No. 1.) S&J alleges, among other things, that Defendants breached the parties’ contract and committed fraud. (See *id.*) Defendants then filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (See Mot. to Dismiss, ECF No. 16.)

On February 8, 2022, without expressing any view on the merits of the motion to dismiss, the Court entered an order granting S&J leave to file a First Amended Complaint in order to remedy the alleged deficiencies in its claims identified by the Defendants in the motion to dismiss. (See Order, ECF No. 29.) The Court informed

the parties that if S&J decided to file a First Amended Complaint, it would terminate Defendants' motion to dismiss without prejudice. (*See id.*)

On February 15, 2022, S&J filed a notice with the Court that it intends to file a First Amended Complaint. (*See* Notice, ECF No. 30.) Accordingly, because S&J will be filing a First Amended Complaint, the Court (1) **TERMINATES** Defendants' motion to dismiss (ECF No. 16) **WITHOUT PREJUDICE AS MOOT** and (2) **ADJOURNS** the previously-scheduled March 15, 2022, hearing on that motion. (*See* Notice of Hearing, ECF No. 28.) Defendants may re-file a motion to dismiss directed at the First Amended Complaint if they believe that such a motion is appropriate after reviewing that pleading.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: February 16, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 16, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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